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NEW DELHI, SATURDAY, AUGUST 14, 1999/SRAVANA 23, 1921

इस भाग में प्रिन्ट पृष्ठ संख्या दी जाती है जिसमें कि यह अलग संकलन के रूप में
रखा जा सके

Separate Pdgng is given to this Part in order that it may be filed as a
separate compilation

भाग II—खंड 3—उप-खंड (iii) PART II—Section 3—Sub-section (iii)

केंद्रीय अधिकारियों (सर्व राज्य क्षेत्र प्रशासनों को छोड़कर) द्वारा जारी किये गये आदेश और अधिसूचनाएँ
Orders and Notifications issued by Central Authorities (other than the Administrations of Union Territories)

भारत निर्वाचन आयोग
नई दिल्ली, 23 जुलाई, 1999

ELECTION COMMISSION OF INDIA

New Delhi, the 23rd July, 1999

आ.प्र. 175.—लोक प्रतिनिधित्व अधिनियम, 1951
(1951 का 43) की धारा 21 के उपबंधों के अनुसरण
में निर्वाचन आयोग पश्चिम बंगाल राज्य सरकार के
परामर्श से एन.एन. तारीख 6 अप्रैल, 1994 को अपनी
अधिसूचना सं. 434/प.ब.—लो.स./94(1) में निम्नलिखित
संशोधन करता है।

O. N. 175.— In pursuance of the provi-
sions of Section 21 of the Representation of the Peo-
ple Act, 1951 (43 of 1951), the Election Commission
in consultation with the State Government of West
Bengal, hereby makes the following amendments
in its Notification No. 434/WB-HP/94(1), dated
the 6th April, 1994.

उक्त अधिसूचना में संलग्न सारणी में क्रम सं. 37
और 38 के सामने प्रत्येक विद्यमान प्रविष्टि
के लिए नम्बर 2 के अधीन निम्नलिखित तत्त्वों की प्रविष्टि
प्रतिस्थापित की जाती है:

In the Table appended to the said Notifi-
cation, under Column 2 for each of the existing
entry against S. Nos. 37 and 38, the following corres-
ponding entry shall be substituted:

संसदीय निर्वाचन क्षेत्र की क्रम सं. और नाम	रिटर्निंग आफिसर
37—दुर्गापुर (अ.जा.)	अनर जिला मजिस्ट्रेट, बर्दवान
38—आसंसोल	अनर जिला मजिस्ट्रेट, बर्दवान स्थित आसंसोल

S. No. & Name of P. r. i. mentary Constituency	Returning Officer
1.	2.
37. Durgapur (SC)	Additional District Magistrate, Burdwan.
38. Asansol	Additional District Magistrate, Burdwan at Asansol

[सं. 434/प.ब.—लो.स./99]
अद्वितीय,
डी.एन. चावला, सचिव

[No. 434/WB-HP/99]
By Order,
B. N. CHAWLA, Secy.

नई दिल्ली, 7 अगस्त, 1999

आ. अ. 176.—चौक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग पत्रद्वारा निर्वाचन अर्जी सं. 1/1998 में दिया गया पटना उच्च न्यायालय (पटना) का तारीख 6-5-1999 का आदेश प्रकाशित करता है।

(आदेश अंग्रेजी में छपा हुआ है।)

[स. 82/बिहार / (1/98) / 99]

आदेश में,

बी एन चादला, सचिव

New Delhi, the 7th August, 1999

O.N. 176.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the order dated the 6-5-1999 of the High Court of Judicature at Patna (Patna) in Election Petition No. 1 of 1998.

IN THE HIGH COURT OF JUDICATURE AT PATNA

Election Petition No. 1 of 1998

Thomas Hansda Vs. Som Marandi & ors.

For the petitioner :

Mr. Amrendra Kumar Singh,
Mr. Upendra Prasad & Mr. N. K. Tewary,

For respondent No. 1 :

Mr. Ravi Shankar Prasad,
Mr. Anjani Kumar Sharan &
Mr. Praveen Kumar

For respondent No. 9 :

Mr. Vibhuti Pandey &
Mr. Bipin Kumar.

Sl. No. 22 dated 6-5-99

The record was put up today for hearing on the petition of objection filed on behalf of respondent No. 1 under Order 7 Rule 11 of the Code of Civil Procedure read with Section 86 of the R.P. Act, 1951. A rejoinder was also filed on behalf of the petitioner and the points raised in this petition have been disputed. However, when the matter was taken up it was pointed out by the learned

counsel for respondent No. 1 that the present election petition has become infructuous in view of the fact that 12th Lok Sabha, to which the present election petition relates, stands dissolved by the proclamation of the President of India dated 26-4-1999. It is submitted that since there is no allegation of corrupt practice in this case and the petition has been filed challenging the election of respondent No. 1 only on the ground of mistake in calculation at the time of declaration of result of the Lok Sabha from the constituency in question and since the Lok Sabha has been dissolved, the election petition has become infructuous and it will be futile to hear it. So far as the allegation of corrupt practice is concerned, it is admitted that there is no such allegation in the election petition and the election petition has been mainly filed on the ground that there was mistake in calculation of the votes cast in favour of the respective candidates at the time of preparation of the final result sheet for the constituency. In this regard it has been submitted that actually the prayer of the election petitioner is that the election of respondent No. 1, the declared candidate, be set aside and the petitioner be declared elected from the constituency for the election. So, if this petition is heard and the election petition is allowed, the petitioner shall have to be declared elected, but he cannot take seat in the Lok Sabha because it has already been dissolved and according to Article 99 of the Constitution of India for becoming a Member of Parliament the winning candidate should take oath of office which is impracticable in the present situation.

2. In this regard, learned counsel for respondent No. 1 has cited a decision reported in AIR 1974 S. C. 505 (Loknath Padhan Vs. Birendra Kumar Sahu). It was a case in which the election petition in question was allowed by High Court and the appeal was preferred before the Hon'ble Supreme Court, but while the appeal was pending the assembly in question was dissolved and, therefore, the question was raised there whether the appeal should be allowed to continue or it should be dismissed. Their Lordships in this connection discussed the situation and observed :

"The argument of the respondent was that unless there is a living issue between the parties the Court would not proceed to decide it; it would not occupy its time by deciding what is purely an academic question which has no sequitur so far as the position of the parties is concerned. Here, contended the respondent, even if the appellant was able to satisfy the Court that on the date of the nomination, the respondent was disqualified under Section 9-A, it would be a futile exercise, because the Orissa Legislative Assembly being dissolved the setting aside of the election of the respondent would have no meaning or consequence and hence the Court should refuse to embark on a discussion of the merits of the question arising in the appeal. We think there is great force in this preliminary contention urged on behalf of the respondent. It is a well settled practice recognised and followed in India as well as England that a Court should not undertake to decide an issue, unless it is a living issue between the Parties. If an issue is purely academic in that its decision one way or the other would have no impact on the position of the parties it would be waste of public time and indeed not proper exercise of authority for the Court to engage itself in deciding it."

Taking this view their Lordships ultimately held in the case under reference that :

"We are, therefore, of the view that the Orissa Legislative Assembly being dissolved during the pendency of this appeal, it is now wholly academic to consider whether the respondent was disqualified under Section 9A at the date of nomination and since that is the only ground on which election of the respondent is challenged, we think it would be futile to hear this appeal on merits. We accordingly dismiss the appeal with no orders as to costs all throughout."

3. Another decision which was cited is the case of Kashi Nath Mishra vs. Vikramaditya Pandey & ors. reported in (1998) 8 S.C.C 735. This is a very short order by the Supreme Court in which the order has been passed like this :

"This appeal arises from Election Petition No. 4 of 1991 filed under Section 81 of the Representation of the People Act, 1951. The appellant had challenged the election of the second respondent to the U.P. Legislative Assembly from the 227 Ballia Assembly Constituency in district

Ballia. The election petition was dismissed. The terms of the Assembly has expired by efflux of time; thereafter, another election has been held and another Assembly constituted.

Under these circumstances, the appeal having become infructuous is dismissed. No costs."

4. In this view of the matter, it is submitted on behalf of respondent No. 1 that since the only point involved in this election petition is whether there was any mistake in the calculation and computation of the result and there is no allegation of corrupt practice, the election petition has become infructuous as it will be only an academic exercise if the election petition is maintained and heard.

5. On the other hand, counsel for the petitioner relied on a decision in the case of Moti Ram vs. Param Dev and anor. reported in AIR 1993 S.C. 1662. The facts of this case are that the election petition relating to Himachal Pradesh Legislative Assembly from 60-Chachoi Assembly Constituency held in 1990 was filed. The appellant was declared elected to the Legislative Assembly from the said constituency. His election was challenged by the respondents in this appeal by filing election petitions in the High Court of Himachal Pradesh. By its judgment dated June 6, 1991 the High Court has allowed the election petition and set aside the election of the appellant on the ground that the nomination of the candidates was improperly rejected by the returning Officer. While the appeal was pending the Assembly in question was dissolved and a question was raised before the Hon'ble Supreme Court whether the appeal in view of the dissolution of the Assembly should be continued and/or maintained or it should be dismissed. It was submitted on behalf of the appellant before the Court that as the election petition was allowed and his election was set aside; if the order is not set aside, he shall have to refund the payments made to him from the Assembly and therefore, it become necessary for the Court to decide the appeal and keeping in view the situation and in the special circumstances the Hon'ble Supreme Court decided to hear the appeal and the appeal was heard and disposed of. In this view of the matter, it has been submitted on behalf of the petitioner that the petition should be maintained and heard.

6. In this connection, it is pertinent to note that the circumstances in both the aforesaid cases, i.e. the case reported in AIR 1974 S.C. 505 and AIR 1993 S.C. 1662 are quite different, whereas in the first case the election petition was dismissed and the appeal was pending and the decision in the appeal was not going to affect any body and no consequence was going to follow, the appeal was held to be non-maintainable and dismissed. In the

later case the election petition of the appellant was allowed and if the original order of the High Court was allowed to continue, the appellant would have been ordered to refund the amount received as a remuneration and other payment to him by the Assembly and therefore, it was submitted that in the special circumstance, the appeal should be heard and decided and accordingly, it was accepted.

7. In the present case, the election petition has not even been heard, not even a witness has been examined and therefore, it is obvious that the entire exercise in examining the witnesses and hearing the argument and deciding the election petition will be exercise in futility without any consequence.

I find substance in the contention of the learned counsel for respondent No. 1 that even if the petition is allowed, the election petitioner is not going to be benefited, because there is no likelihood or chance of his taking oath for becoming a Member of Parliament and therefore, it has been submitted that the election petition be dismissed at this stage as it has become infructuous.

8. In this view of the matter, this election petition is held to be infructuous and is dismissed.

Sd/- A. N. TRIVEDI

[No. 82/BR/(1/98)/99]

By Order,
B. N. CHAWLA, Secy.

नई दिल्ली, 7 अगस्त, 1999

आ. अ. 177.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग एतद्वारा निर्वाचन अर्जी सं. 2/98 में दिया गया पटना उच्च न्यायालय (पटना) का तारीख 5-5-1999 का आदेश प्रकाशित करता है।
आदेश अंग्रेजी में छपा हुआ है।

[सं. 82/बिहार / (2/98) / 99]

आदेश से,

बी. एन. चावला, सचिव

New Delhi, the 7th August, 1999

O.N. 177.— In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951) the Election Commission hereby publishes the Order dated the 5-5-1999 of the High Court of Judicature at Patna (Patna) in Election Petition No. 2 of 1998.

(here print order attached)

IN THE HIGH COURT OF JUDICATURE AT PATNA

E. P. No. 2 of 1998

Amrendra Kumar 'Amar' ... Petitioner
Vrs.

Lallo Prasad ... Respondent
For the Petitioner : None.

For the Respondent : Mr. Ganga Prasad Rai,
Sr. Counsel.

No. 31 Dated 5-5-99

On 29-4-1999 when this case was listed under the heading 'to be mentioned' Sri Ganga Prasad Rai, learned senior counsel for Respondent stated

that he shall produce the relevant Notification regarding dissolution of 12th Lok Sabha and with the consent of learned counsel for the parties the case was fixed for today.

Name of learned counsel for the petitioner has been printed in the cause list but despite repeated calls no one has responded on behalf of the petitioner.

Sri Ganga Prasad Rai, learned senior counsel for the Respondent has placed on record a copy of the Notification dated 26th April, 1999 issued by the President of India in exercise of powers conferred by sub-clause (b) of Clause (2) of Article 85 of the Constitution directing dissolution of the 12th Lok Sabha. Since the 12th Lok Sabha of which Respondent was a sitting member has been dissolved, the tenure of the Respondent comes to an end. As there is no allegation of corrupt practices made by the petitioner against the Respondent, this Election Petition does not survive and is accordingly dismissed. No order as to costs.

Let certified copies of this order be communicated to the concerned authorities.

Sd/- A. N. TRIVEDI

[No. 82/BR/(2/98)/99]

By Order,
B. N. CHAWLA, Secy.

नई दिल्ली, 7 अगस्त, 1999

भा. अ. 178.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 22 की उपधारा (1) द्वारा प्रबल शक्तियों का प्रयोग करते हुए, आयोग की 4 अप्रैल, 1999 की अधिसूचना सं. 434/केरल/91.(2), में निम्नलिखित संशोधन और किए जाएंगे :—

SCHEDULE

सारणी

संसदीय निर्वाचन क्षेत्र के लिए रिटर्निंग आफिसर को क्रम संख्या

सहायक रिटर्निंग आफिसर

1	2
2. कन्नानोर	1. क्रम संख्या 1 के सामने, विद्यमान प्रविष्टि के स्थान पर "उप कलक्टर (भूमि अर्जन) कन्नानोर" प्रतिस्थापित किया जाएगा।
	2. क्रम संख्या 4 के सामने विद्यमान प्रविष्टि के स्थान पर, "सहायक विकास आयुक्त (मामान्य) कन्नानोर" प्रतिस्थापित किया जाएगा।
3. बड़ागावा	1. क्रम संख्या 4 के सामने, विद्यमान प्रविष्टि के स्थान पर "उप कलक्टर (एन एच के लिए भूमि अर्जन) कलक्टर कोझीकोड" प्रतिस्थापित किया जाएगा।
4. कालीफट	1. क्रम संख्या 8 के सामने विद्यमान प्रविष्टि के स्थान पर "उप कलक्टर (भूमि अर्जन) कलक्टरी वयानाड" प्रतिस्थापित किया जाएगा।
6. पोन्नानी	1. क्रम संख्या 6 के सामने, विद्यमान प्रविष्टि के स्थान पर, "उप कलक्टर (राजस्व वसूली) मालापुरम" प्रतिस्थापित किया जाएगा।
8. ओटापालम	1. क्रम संख्या 3 के सामने, विद्यमान प्रविष्टि के स्थान पर "उप कलक्टर (राजस्व वसूली) पालाक्कड" प्रतिस्थापित किया जाएगा।
9. लिचूर	1. क्रम संख्या 3 के सामने विद्यमान प्रविष्टि के स्थान पर, "उप कलक्टर (राजस्व वसूली) लिचूर" प्रतिस्थापित किया जाएगा।

[सं. 434/केरल/ 99(2)]

आदेश से,

बाबू राम, अधिक

New Delhi, the 7th August, 1999

O.N. 178 .—In exercise of the powers conferred by sub-rule (1) of Section 22 of the Representation of the People Act, 1951 (43 of 1951), further following amendments shall be made in the Commission's Notification No. 434/KL/91(2), dated 4th April, 1999:—

TABLE

Sl. No. of Returning Officer for Parliamentary Constituency	Assistant Returning Officer
1	2
2—Kannur	(1) Existing entry against S. No. 1 shall be substituted by "Deputy Collector (Land Acquisition), Kannur". (2) Existing entry against S. No. 4 shall be substituted by "Assistant Development Commissioner (General), Kannur".
3—Badagara	(1) Existing entry against S. No. 4 shall be substituted by "Deputy Collector (Land Acquisition for NH), Collectorate, Kozhikode".
4—Calicut	(1) Existing entry against S. No. 8 shall be substituted by "Deputy Collector (Land Acquisition) Collectorate, Wayanad".
6—Ponani	(1) Existing entry against S. No. 6 shall be substituted by "Deputy Collector (Revenue Recovery), Malapuram".
8—Ottappalam	(1) Existing entry against S. No. 3 shall be substituted by "Deputy Collector (Revenue Recovery), Palakkad".
9—Trichur	(1) Existing entry against S. No. 3 shall be substituted by "Deputy Collector (Revenue Recovery), Trichur".

[No. 434/KL/99(2)]

By order,

BABU RAM, Secy.